

### **REMARKS/ARGUMENTS**

Claims 1-64 were pending in this application before the present response. In the Office Action dated May 11, 2009, claims 1-64 stand rejected under 35 U.S.C. § 103.

This paper rewrites claims 1-3, 18, 28, 42, and 56-60. Thus, claims 1-64 remain pending in this application. Applicants respectfully request reconsideration and allowance of all pending claims, in view of the following remarks.

#### **Claim Rejections – 35 U.S.C. § 103**

##### ***Claims 1-4, 9, 12-13, 15, 18-19, 22-23, 26, 28, 29-31, 33, 35-36, 42-45, 47, 49, and 56-64***

Claims 1-4, 9, 12-13, 15, 18-19, 22-23, 26, 28, 29-31, 33, 35-36, 42-45, 47, 49, and 56-64 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, et al., U.S. Patent Application Publication Number 2003/0185238 (hereinafter “Strasser”), in view of Kelly et al., U.S. Patent Application Publication Number 2006/0093315 (hereinafter “Kelly”). The Applicants respectfully traverse this rejection.

The differences between the presently claimed invention and Strasser and Kelly, taken either alone or in combination, are nonobvious. As reiterated by the Supreme Court in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007), the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Thus, the analysis of patentability under 35 U.S.C. 103 requires consideration of four factors: (i) the scope and content of the prior art, (ii) the differences between the prior art and the claims as a whole, (iii) the level of ordinary skill in the art, and (iv) objective evidence of non-obviousness. *Graham* at 13. Combining elements from different prior art references in hindsight is to be avoided.

Strasser describes a system and methods for maintaining a timing relationship among data packets associated with a single program of a multiple program transport stream. In Strasser, a transport stream parser receives a multiple program transport stream that includes multimedia data packets from multiple programs. The multiple program transport stream organizes the programs serially (FIG. 2, element 105). The transport stream parser (element 110) synchronizes the multiple program transport stream

(element 105) with a program clock reference (element 113) to extract a single program transport stream (element 115). Strasser describes as an example in paragraph [0024] that “[d]ata related to only program P0 may be extracted from the multiple program transport stream”. In this example, the transport stream parser (element 110) receives a multiple program transport stream (element 105), extracts a single program (P0), and produces a single program transport stream (element 115) synchronized with the system clock. The data related to the other programs in the multiple program transport stream (P1 and P2) are excluded from the single program transport stream. Thus, the Strasser transport stream parser (element 110) receives a multiple program transport stream (element 105) that includes P0, P1, and P2, and produces a single program transport stream (element 115) that includes only P0, thereby excluding P1 and P2.

The presently claimed invention, as recited in independent claims 1-3, 18, 28, 42, and 56-60, differs from Strasser. The presently claimed invention receives “first content that includes multimedia data streams”. The presently claimed invention analyzes “the first content to detect sets of related first content portions, each set defining a presentation group for one of the multimedia data streams”, generates “a private transport packet for each presentation group”, and creates “second content by combining the first content and the private transport packet for each presentation group”. The second content in the presently claimed invention is not analogous to the single program transport stream in Strasser because the second content in the presently claimed invention includes the multimedia data streams from the first content and a private transport packet for each detected presentation group. Since the second content in the presently claimed invention includes the multimedia data streams from the first content, the presently claimed invention differs from Strasser.

The Office Action acknowledges that Strasser does not describe, for a plurality of presentation groups in the first content, generating a respective private transport packet that includes metadata derived from at least some of the first content portions in the presentation group. The Office Action also acknowledges that Strasser fails to teach the metadata containing information allowing modified production of the first content in a manner that is different from a first production of the first content defined by the first content format. The Office Action further acknowledges that Strasser fails to teach

creating second content by combining the first content and the private transport packet for each presentation group, and storing the second content. The Examiner relies on Kelly to make up for the shortcomings of Strasser.

Kelly describes various methods for producing an edited MPEG audio/video stream from first and second streams recorded in a transport-stream format normally intended for broadcast purposes. FIG. 7 in Kelly illustrates the key features and structure of the MPEG-2 transport stream format. The transport stream in Kelly is a continuous stream of transport packets labeled T-PKT, where each T-PKT includes a header portion and a payload portion. The header portion includes a PID field that indicates one elementary stream to which that packet relates, these being interleaved in units of transport packets with plentiful other streams. The payload portion, as indicated by bytes DAT-0 to DAT-N in FIG. 7, for successive transport packets that have the same PID are concatenated into a stream, and this stream carries packetized elementary stream packets PES-PKT, which are further defined in the MPEG-2 specification. Thus, as taught by Kelly, the T-PKTs are not generated, but are part of the transport stream. Also, as taught by Kelly, the DAT-0 to DAT-N portion of the T-PKT is payload data for the T-PKT, not metadata (*i.e.*, data that describes other data).

The presently claimed invention, as recited in independent claims 1-3, 18, 28, 42, and 56-60, differs from Kelly. The presently claimed invention describes “generating a private transport packet for each presentation group, each private transport packet including metadata derived from at least one of the first content portions in the respective presentation group”. Thus, the private transport packet in the presently claimed invention is not analogous to the PES-PKT in Kelly because the private transport packet in the presently claimed invention is derived from the first content portions in the presentation group, and the PES-PKT in Kelly is not derived from the DAT-0 to DAT-N payload portion of the T-PKT.

Strasser and Kelly, taken either alone or in combination, do not describe receiving first content that includes multimedia data streams, analyzing the first content to detect sets of related first content portions where each set defines a presentation group for one of the multimedia data streams, and generating a private transport packet for each presentation group to create second content by combining the first content and the private

transport packet for each presentation group. Furthermore, the Strasser and Kelly references, taken either alone or in combination, do not describe that each private transport packet includes metadata derived from at least one of the first content portions in the respective presentation group. Thus, Kelly does not make up for the shortcomings of Strasser because it does not describe receiving first content that includes multimedia data streams, analyzing the first content to detect sets of related first content portions where each set defines a presentation group for one of the multimedia data streams, and generating a private transport packet for each presentation group to create second content by combining the first content and the private transport packet for each presentation group. Kelly also does not describe that each private transport packet includes metadata derived from at least one of the first content portions in the respective presentation group.

Since Kelly fails to supply features missing from Strasser, the combination of Strasser and Kelly cannot suggest the presently claimed invention and cannot render the claims obvious. Thus, no matter how Strasser and Kelly may be combined (even assuming, *arguendo*, that one of ordinary skill in the art would be led to combine them) the resulting combination is not the invention recited in independent claims 1-3, 18, 28, 42, and 56-60.

Furthermore, Strasser **teaches away** from the presently claimed invention. A person of ordinary skill in the art considering Strasser in view of Kelly would receive a multiple program transport stream and produce a single program transport stream by excluding data packets from the multiple program transport stream, thereby producing a single program output stream from a multiple program input stream. Since the first content in the presently claimed invention “includes multimedia data streams”, Strasser teaches away from the recitation in the presently claimed invention of “creating second content by combining the first content and the private transport packet for each presentation group”, thereby producing a multiple program output stream from a multiple program input stream. Based on the disclosure in Strasser, the person of ordinary skill in the art would be discouraged from creating second content by combining the first content that includes multimedia data streams and the private transport packet for each presentation group. Thus, a *prima facie* conclusion of obviousness cannot be drawn from the combination of Strasser and Kelly. Applicants respectfully submit that Strasser fails

to provide a basis for a rejection under 35 U.S.C. § 103, at least because Strasser teaches away from creating second content by combining the first content and the private transport packet for each presentation group. Because Strasser is an improper basis for rejecting Applicants' claims, the combination of Strasser with Kelly, or with other prior art references, also is an improper basis for rejecting Applicants' claims.

For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are patentable over Strasser and Kelly, taken either alone or in combination. Thus, the Examiner should withdraw the 35 U.S.C. § 103 obviousness rejection as to independent claims 1-3, 18, 28, 42, and 56-60.

Claims 4-17, 19-27, 29-41, 43-55, and 61-64 depend from independent claims 1-3, 18, 28, 42, or 56-60. For the previously stated reasons, independent claims 1-3, 18, 28, 42, and 56-60 are allowable. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 4-17, 19-27, 29-41, 43-55, and 61-64.

***Claims 5-8, 10, 14, 17, 20-21, 24, 27, 34, 37-41, 48, and 50-55***

Claims 5-8, 10, 14, 17, 20-21, 24, 27, 34, 37-41, 48, and 50-55 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of Barton, et al., U.S. Patent Number 6,233,389 (hereinafter "Barton"). The Applicants respectfully traverse this rejection.

Claims 5-8, 10, 14, 17, 20-21, 24, 27, 34, 37-41, 48, and 50-55 depend, respectively, from independent claims 3, 18, 28, and 42. For at least the aforementioned reasons, claims 3, 18, 28, and 42 are patentable over Strasser and Kelly, taken either alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 5-8, 10, 14, 17, 20-21, 24, 27, 34, 37-41, 48, and 50-55.

Furthermore, Barton describes a multimedia time warping system that allows the user to store selected television broadcast programs while the user is simultaneously watching or reviewing another program. The television input streams are converted to an

MPEG formatted stream for internal transfer and manipulation and are parsed and separated into video and audio components that are stored in temporary buffers. However, Barton does not make-up for the aforementioned shortcomings of Strasser and Kelly. Thus, the combination of Strasser, Kelly, and Barton, taken either alone or in combination, do not describe the presently claimed invention.

### ***Claim 11***

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of Kovacevic, U.S. Patent Application Publication Number 2002/0128823 (hereinafter “Kovacevic”). The Applicants respectfully traverse this rejection.

Claim 11 depends from independent claims 3. For at least the aforementioned reasons, claim 3 is patentable over Strasser and Kelly, taken either alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claim 11.

Furthermore, Kovacevic describes a system and methods for processing digital audio stream data from received transport streams. However, Kovacevic does not make-up for the aforementioned shortcomings of Strasser and Kelly. Thus, the combination of Strasser, Kelly, and Kovacevic, taken either alone or in combination, do not describe the presently claimed invention.

### ***Claims 16, 25, 32, and 46***

Claims 16, 25, 32, and 46 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of McLaren, et al., U.S. Patent Number 6,064,794 (hereinafter “McLaren”). The Applicants respectfully traverse this rejection.

Claims 16, 25, 32, and 46 depend, respectively, from independent claims 3, 18, 28, and 42. For at least the aforementioned reasons, claims 3, 18, 28, and 42 are patentable over Strasser and Kelly, taken either alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants

respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 16, 25, 32, and 46.

Furthermore, McLaren describes a method for providing various reproduction modes by controlled selection of replay locations within a video stream or between separate video streams derived for selected trick-play speeds. However, McLaren does not make-up for the aforementioned shortcomings of Strasser and Kelly. Thus, the combination of Strasser, Kelly, and McLaren, taken either alone or in combination, do not describe the presently claimed invention.

### **Conclusion**

In view of the foregoing discussion, Applicants believe that claims 1-64 are allowable over the cited art. Applicants respectfully submit that all pending claims are in full condition for allowance, and earnestly request that the Examiner withdraw all rejections of the claims and enter a Notice of Allowance at the earliest date possible.

Should the Examiner feel that there are any issues outstanding after consideration of this response; the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

Respectfully submitted,  
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